

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

Derek Castonguay,

Plaintiff

v.

Mac's Convenience Stores DBA
Circle K,

Defendant

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CIVIL ACTION

DOCKET NO.:

Complaint and Demand for Jury Trial

Now comes Plaintiff Derek Castonguay, by and through undersigned counsel, and avers as follows:

Parties

1. Plaintiff, Derek Castonguay, is a resident of Van Buren, County of Aroostook, State of Maine.
2. Defendant Mac's Convenience Stores DBA Circle K ("Circle K") is a Delaware corporation with its principal place of business in Columbus, Indiana.

Jurisdiction and Venue

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332, because:
(a) there is complete diversity of citizenship between Plaintiff and Defendant and (b) the amount in controversy exceeds \$75,000.

4. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391, because the actions complained about herein occurred in the State of Maine and Plaintiff resides in the State of Maine.

Facts

5. Circle K owns and operates a convenience store at 89 High Street in Caribou, Maine.

6. On or about January 10, 2020, Plaintiff, a minor at that time, was on the premises of Circle K as a customer.

7. At the same time and place, Plaintiff was violently assaulted in plain sight of an employee of Circle K and other store customers.

8. The assailant left the inside of the store.

9. After the assailant left the inside of the store, there remained concern that the assailant continued to pose an ongoing risk to Plaintiff and other store customers, including risk that the assailant was armed with a gun and would return to the store or attack persons upon leaving the store.

10. Because Plaintiff had no means of transportation, a taxi was called to pick up Plaintiff from Circle K.

11. A taxi arrived and picked up Plaintiff at Circle K.

12. The assailant followed the taxi in another vehicle until the taxi arrived at its destination.

13. Upon arrival at the taxi's destination, the taxi came to a stop and the assailant shot Plaintiff, causing Plaintiff severe, life-threatening injuries.

Count I - Negligence

14. Plaintiff realleges the preceding allegations as if set forth fully herein.

15. As the proprietor of a convenience store, Circle K owed a duty to exercise reasonable care regarding the safety of its customers, including a duty to protect customers from known dangers and those dangers it should reasonably anticipate.

16. Circle K breached its duty for reasons including but not limited to the following—

- a. Circle K failed to reasonably recruit, hire, and supervise its employees.
- b. Circle K failed to reasonably train its employees.
- c. Circle K, acting by and through its employees, failed to take reasonable actions to protect Plaintiff, its other customers, and its employees, from known dangers and dangers it should reasonably have anticipated.

17. Circle K's breach was a proximate cause of injuries and losses to Plaintiff.

18. Plaintiff's injuries and losses proximately caused by Circle K's breach include, but are not limited to, personal injuries; permanent impairment; emotional distress; lost earnings and earning capacity; medical and life care expenses; pain and suffering; and lost enjoyment of life.

WHEREFORE, Plaintiff seeks judgment against Defendant for compensatory damages, interest, costs, attorney fees and such other and further relief as this Court deems just and appropriate.

Demand for Jury Trial

Plaintiff hereby requests that his claim be tried by a jury.

Date: March 26, 2021

/s/ Benjamin R. Gideon
Benjamin R. Gideon
Maine Bar No.: 9419
Gideon Asen LLC
19 Yarmouth Drive, Suite 203
New Gloucester, ME 04260
Attorney for Plaintiff
Service@gideonasenlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2021, I electronically filed Complaint and Demand for Jury Trial with the Clerk of Courts using the CM/ECF system which will send notification of such filing to the following:

/s/ Benjamin R. Gideon
Benjamin R. Gideon
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